

**DURHAM, NORTH CAROLINA
MONDAY, OCTOBER 20, 2003
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

Also present: City Manager Marcia Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order noting that Mayor Pro Tempore Cheek and Council Member Edwards have requested an excused absence.

[EXCUSED ABSENCES]

MOTION by Council Member Clement seconded by Council Member Stith to excuse Mayor Pro Tempore Cheek and Council Member Edwards from the meeting was approved at 7:04 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

At this time, the Mayor requested a moment of silence along with the Pledge of Allegiance and read proclamations declaring October 2003 as National Arts & Humanities Month and October 25, 2003 as Lead Poisoning Prevention Day.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Conner noted that she would be making a disclosure on Consent #42 [TTA Parking Space Agreement for North Garage], provided revised handouts for Consent #24 [Canary Coalition] and a revised resolution for Consent #45 [Durham Bill of Rights Defense Committee]. There were no priority items from the City Attorney and City Clerk.

Council Member Clement thanked Downtown Durham, Inc. for the trip he took to Richmond, Virginia regarding downtown revitalization, announced his attendance at the reception held for Allison Duncan on October 16, 2003 at NCCU. Also, he commended management and policy makers of DHA for being removed from the characterization as a troubled agency and announced his attendance at the 25th Anniversary Banquet of Bright World Day Care on October 18, 2003.

Council Member Cole-McFadden noted at the NCLM Annual Conference, she presented a proposed policy on behalf of the City asking for the League to support statewide legislation to authorize municipalities to enact ordinances prohibiting discrimination in employment, housing and public accommodations. Also, she noted they accepted amendment and policy statement is being referred to the appropriate committee for consideration.

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Roosevelt Carter, Acting Solid Waste Transfer Station Manager, gave an update on the collection of storm debris.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. The following items were pulled: 12 [Economic Development Loan Programs], 14 [Operation Breakthrough Weatherization Program]; 15 [Durham County Habitat for Humanity, Ellerbee II]; 20 [DATA]; 21 [Managed Competition Update]; 24 [Canary Coalition]; 34 [Immigration Status]; 35 [Rehabilitation Contracts and Projects]; 37 [Facility Condition Assessment]; 42 [TTA Parking Space – North Garage]; 43 [Reimbursement for Law Enforcement Assistance]; and 45 [Durham Bill of Rights Defense Committee – USA Patriot Act].

It was indicated that Consent Item #43 [Reimbursement for Law Enforcement Assistance] should be on the General Business Agenda.

MOTION by Council Member Stith seconded by Council Member Clement to approve the Consent Agenda as amended was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES - CITY CLERK'S OFFICE

To approve City Council minutes for the following meetings:

September 15, 2003 - Regular Meeting
September 15, 2003 - Special Meeting

Note: This item was referred back to the City Clerk's Office.

SUBJECT: INVENTORY AUDIT – JUNE 30, 2003

MOTION by Council Member Stith seconded by Council Member Clement to receive and accept the Inventory Audit – June 30, 2003, dated September 2003 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: CONTRACTS

MOTION by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute contracts listed below; and

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To authorize the City Manager to make changes to contracts before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

Contractor	Contract Description	Dept	CT Amt
Piedmont Geologic	UST removal, soil remediation& LSA for Orchard Park	Gen Ser	\$ 20,286.00
Complete Lawn Care	CT amendment-increase CT \$4000.00 extend CT to 6/30/04	Housing	\$ 13,000.00
K&C Enterprises	CT amendment-increase CT \$4000.00 extend CT to 6/30/04	Housing	\$ 13,000.00
Borden & Tolley Appraisal	Limited appraisal report Weaver St Apartments-Greenway easement	Gen Ser	\$ 750.00
Jonathan Bogues	Official	P&R	\$ 2,500.00
Gregory Alston	Official	P&R	\$ 1,750.00
Rags to Riches	Childrens Theater	P&R	\$ 2,250.00
James Campbell	Official	P&R	\$ 1,750.00
The Scrap Exchange	Hallow-Eno special event	P&R	\$ 525.00
The Young People's Performing Co	Hallow-Eno special event	P&R	\$ 150.00

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH ET DEVELOPMENT CORPORATION - ELLERBEE CREEK PRESERVE

MOTION by Council Member Stith seconded by Council Member Clement to authorize the City Manager to enter into a water and sewer extension agreement with ET Development Corporation to serve Ellerbe Creek Preserve was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH SUN RIVER BUILDERS, INC. - THE WOODLANDS PRESERVE AT SNOW HILL

MOTION by Council Member Stith seconded by Council Member Clement to authorize the City Manager to enter into a water and sewer extension agreement with Sun River Builders, Inc. to serve The Woodlands Preserve at Snow Hill was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

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SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH JAMES J. WANG - NC 55 & ALEXANDER DRIVE PROPERTY

MOTION by Council Member Stith seconded by Council Member Clement to authorize the City Manager to enter into a water and sewer extension agreement with James J. Wang, Individual, to serve NC 55 & Alexander Drive Property was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH REGION DEVELOPMENT, LLC - THE LANDINGS AT AMERICAN VILLAGE

MOTION by Council Member Stith seconded by Council Member Clement to authorize the City Manager to enter into a water and sewer extension agreement with Region Development, LLC to sewer The Landings at American Village was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: SETTING A PUBLIC HEARING TO CONSIDER ORDERING PETITIONED IMPROVEMENTS

MOTION by Council Member Stith seconded by Council Member Clement to accept a certificate of sufficiency from the Manager of Engineering for the following petition; and

To adopt a resolution setting a public hearing for November 3, 2003 to consider ordering the following improvement was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

Water Main on Belgreen Road from Fayetteville Road East to End of Maintenance at Tax Map 553-2-21A

SUBJECT: SETTING A PUBLIC HEARING TO CONSIDER ORDERING PETITIONED IMPROVEMENT

MOTION by Council Member Stith seconded by Council Member Clement to accept a certificate of sufficiency from the Manager of Engineering for the following petition; and

To adopt a resolution setting a public hearing for November 3, 2003 to consider ordering the following improvement was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

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Curb, Gutter and Paving and Water and Sewer Laterals on Belgreen Road from Fayetteville Road East to End of Maintenance at Tax Map 553-2-21A

SUBJECT: SETTING A PUBLIC HEARING TO CONSIDER ORDERING PETITIONED IMPROVEMENT

MOTION by Council Member Stith seconded by Council Member Clement to accept a certificate of sufficiency from the Manager of Engineering for the following petition; and

To adopt a resolution setting a public hearing for November 3, 2003 to consider ordering each of the following improvements was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

Sewer Main on Belgreen Road from Fayetteville Road East to End of Maintenance at Tax Map 553-2-21A

SUBJECT: SETTING A PUBLIC HEARING TO CONSIDER ORDERING PETITIONED IMPROVEMENT

MOTION by Council Member Stith seconded by Council Member Clement to accept a certificate of sufficiency from the Manager of Engineering for the following petition; and

To adopt a resolution setting a public hearing for November 3, 2003 to consider ordering the following improvement under E.A.A was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

Sewer Main on Southgate Street from West Property Line of Tax Map 139-006-15 to West Property Line of Tax Map 139-06-17

SUBJECT: HOUSING AND URBAN DEVELOPMENT (HUD) LEAD GRANT FOR LEAD TESTING AND LEAD REMEDIATION

MOTION by Council Member Stith seconded by Council Member Clement to adopt a Project Ordinance to authorize expenditure of the HUD lead hazard elimination grant funds in an amount of \$2,018,016; and

To authorize the City Manager to execute contracts in aggregate amounts not to exceed \$850,000 for lead abatements; \$165,000 for lead interim controls; \$149,500 for lead testing; \$57,500 for relocations; and

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To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

Ordinance #12877

**SUBJECT: MUNICIPAL AGREEMENT AND GRANT PROJECT
ORDINANCE FOR NC 147 BICYCLE AND PEDESTRIAN
BRIDGE – NC DEPARTMENT OF TRANSPORTATION (NCDOT)**

To authorize the City Manager to enter into a Municipal Agreement with the NC Department of Transportation for the NC 147 Bicycle and Pedestrian Bridge (U-4445); and

To adopt the Grant Project Ordinance Amendment authorizing the expenditure of \$2,000,000 from the City for reimbursement.

Note: *This item was moved to the October 23, 2003 Work Session.*

**SUBJECT: PURCHASE EQUIPMENT TO BE USED IN POLICE
INVESTIGATIONS**

MOTION by Council Member Stith seconded by Council Member Clement to authorize the use of Controlled Substance Tax Distribution Funds in an amount not to exceed \$100,000 and Federal asset Forfeiture Funds not to exceed \$20,500 for the purchase of necessary equipment to be used in police investigations was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

**SUBJECT: CONTRACT SW-13 BRIGGS AVENUE AND PARKWOOD
SIDEWALK AND SPEED HUMPS – HOLMES CONTRACTING,
INCORPORATED**

MOTION by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute a contract with Holmes Contracting, Incorporated in the amount of \$372,119; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best,

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Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: TRANSIT CAPITAL GRANT - GILLIG CORPORATION - BUS

MOTION by Council Member Stith seconded by Council Member Clement to authorize the City Manager to accept and execute the \$795,000 federal transit capital grant that has been offered and to authorize the issuance of a purchase order to the Gillig Corporation for the manufacture and delivery of one (1) additional 40' low floor bus; and

To adopt the City of Durham Grant Project Ordinance FY 2003-04 Transit Capital Grants was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

Ordinance #12878

**SUBJECT: PROPOSED NEW HOUSING PURCHASE PROGRAMS AND
CHANGES TO THE CITY'S PURCHASE PROGRAMS
UNDERWRITING GUIDELINES**

To receive a presentation on the proposed new housing purchase programs and to make changes to the City's purchase program underwriting guidelines.

Note: A presentation was received at the 10/9/03 Work Session.

**SUBJECT: QUARTERLY SDBE REPORT ON THE AMERICAN TOBACCO
PROJECT**

To receive a presentation on the Quarterly Small Disadvantage Business Enterprise Report on the American Tobacco Project.

Note: A presentation was received at the 10/9/03 Work Session.

SUBJECT: JEFF MELVIN

MOTION by Council Member Stith seconded by Council Member Clement to receive comments from H. Jeff Melvin on water draining off the street onto his lot and to refer this item back to the administration was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

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SUBJECT: FRIENDS OF GEER CEMETERY

MOTION by Council Member Stith seconded by Council Member Clement to receive comments from R. Kelly Bryant, Jr. on clearing the cemetery of the 10 years of overgrowth and to refer this item back to the administration was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: STEVE HOPKINS – STRATEGIC REVITALIZATION PLAN

MOTION by Council Member Stith seconded by Council Member Clement to receive comments from Steve Hopkins on Barnes Avenue was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: PARKS MAINTENANCE UPDATE

To receive a report on the Parks Maintenance Update.

Note: *A presentation was received at the 10/9/03 Work Session.*

**SUBJECT: DURHAM BICYCLE & PEDESTRIAN ADVISORY COMMISSION
- APPOINTMENTS**

MOTION by Council Member Stith seconded by Council Member Clement to reappoint Heather Fisher and Perry Pike to the Durham Bicycle & Pedestrian Advisory Commission with terms expiring August 31, 2006 and to appoint Michael S. Wolosin to the Durham Bicycle & Pedestrian Advisory Commission with term expiring August 31, 2004 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: HISTORIC PRESERVATION COMMISSION - REAPPOINTMENT

MOTION by Council Member Stith seconded by Council Member Clement to reappoint David Arneson as a regular member to the Historic Preservation Commission as an Architect with term expiring September 1, 2006 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

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SUBJECT: RECREATION ADVISORY COMMITTEE - RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Stith seconded by Council Member Clement to receive and accept an application for a citizen to fill one (1) vacancy on the Recreation Advisory Committee. The term will expire August 8, 2006 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: DURHAM HOUSING AUTHORITY - RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Stith seconded by Council Member Clement to receive and accept applications to fill one (1) vacancy on the Durham Housing Authority-term expiring September 28, 2008 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: CONTRACT FOR REIMBURSEMENT FOR LAW ENFORCEMENT ASSISTANCE - TOWN OF CHAPEL HILL

MOTION by Council Member Stith seconded by Council Member Clement to authorize a Contract for Reimbursement of Costs Incurred for Law Enforcement Assistance; and

To approve the Grant Project Ordinance for the City of Durham and Town of Chapel Hill for Temporary Law Enforcement Assistance During Halloween was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

Ordinance #12879

SUBJECT: PROPOSED EMINENT DOMAIN PROCEEDING FOR THE WIDENING OF ARCHDALE DRIVE

The find that it is necessary, in the public interest, and for the public use and benefit to condemn the following interests in the property of Frederick D. Warsaw and wife, Janette E. Warsaw identified as: 25 St. Andrews Court, TM 415-04-007, PIN 0810-16-9832: temporary easement of 2,656 SF, permanent drainage easement of 1,373 SF, and permanent street easement of 687 SF, all as shown on Final Plat Showing Easement and Right-of-Way Required for Archdale Drive Widening, Sheet 3 of 3, dated August 24, 2000, prepared by Donald F. Greeley, PLS No. L-3472; to authorize the City Attorney to initiate condemnation proceedings for that purpose, with a deposit into court in the

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amount of \$15,750 as the City's estimate of just compensation; and to ratify the mailing of 30-day notices.

Note: *This item was moved to the October 23, 2003 Work Session.*

SUBJECT: CONTRACT AMENDMENT – EXTENSION OF SCHEDULE FOR DEVELOPMENT OF UNIFIED DEVELOPMENT ORDINANCE (UDO) – CITY OF DURHAM – COUNTY OF DURHAM – DUNCAN ASSOCIATES

MOTION by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute a contract amendment to the UDO contract to extend the schedule for completion of the project through September 30, 2004 was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: RESOLUTION EXPRESSING OPPOSITION TO NELLY'S PIMP JUICE

MOTION by Council Member Stith seconded by Council Member Clement to adopt a "Resolution Expressing Opposition to Nelly's Pimp Juice" was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

Resolution #9048

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: RESOLUTION SUPPORTING THE RIGHTS OF PERSONS REGARDLESS OF IMMIGRATION STATUS

Assistant City Manager Ted Voorhees made comments on this item reading the following resolution for the record:

**RESOLUTION SUPPORTING THE RIGHTS OF PERSONS REGARDLESS OF
IMMIGRATION STATUS**

WHEREAS, the City of Durham is comprised of immigrants from throughout the world who contribute to Durham's social vivacity, cultural richness and economic vitality; and

WHEREAS, Durham has been a city that traditionally is open to and inclusive of all individuals and respects the rights of and provides equal services to all individuals,

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regardless of race, ethnicity, or immigration status; and

WHEREAS, the September 11, 2001 attacks on the World Trade Center and the Pentagon have left some immigrant communities afraid to access benefits to which they are entitled, for fear of being reported to the Department of Homeland Security, Bureau of Citizenship and Immigration Services (BCIS); and

WHEREAS, the Durham Police Department issued a General Order, providing guidelines stating, among other things, that Durham Police officers may not request specific documents for the sole purpose of determining a person's civil immigration status, and may not initiate police action based solely on a person's civil immigration status; and

WHEREAS, a number of other jurisdictions in the United States have enacted policies or laws recognizing that their officers and employees should properly play a limited role with respect to matters relating to immigration status;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DURHAM:

Section 1. It is the policy of the City of Durham not to violate the constitutional or statutory rights of any person, including any such rights protecting persons from discrimination on the basis of ethnicity, race, national origin and immigration status.

Section 2. Unless otherwise required as part of a City officer or employee's duties, by law, or by court order, no Durham City officer or employee, during the course and scope of their employment, shall inquire into the immigration status of any person, or engage in activities designed to ascertain the immigration status of any person. This policy shall not be construed to prohibit any Durham City officer or employee from cooperating and sharing information with federal or state authorities and other governmental entities as required by law.

Section 3. In the event of conflict between federal law, regulations or any other requirement and this City resolution, the federal law, regulations or any other requirement shall control and supersede any conflicting provision of this resolution.

Section 4. This resolution shall take effect upon adoption.

The following individuals spoke in support of this item: Theresa El-Amin, Antres Troya, Jennifer Lee, Rev. David McBriar and Ray Ubinger.

Randy Lewis and Victoria Peterson spoke in opposition to this item noting Council is asking police officers to not follow the law and is making a special status out of a certain group of people.

Mayor Bell outlined the purpose of this resolution noting City employees cannot go around asking individuals if they are legal/illegal immigrants.

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Council Member Stith noted this is an issue of the protection of basic human rights for individuals.

MOTION by Council Member Cole-McFadden seconded by Council Member Stith to adopt a “Resolution Supporting the Rights of Persons Regardless of Immigration Status” was approved at 8:01 p.m. by the following vote: Ayes: Mayor Bell and Council Members Clement, Cole-McFadden and Stith. Noes: Council Member Best. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

Resolution #9046

SUBJECT: ECONOMIC DEVELOPMENT LOAN PROGRAMS - MUTUAL COMMUNITY SAVINGS BANK

Lillian Lennon, of 810 Fayetteville Street, urged Council to support the reinstatement of the small business loan program.

Council Member Best asked questions that were answered by staff concerning the role of Self-Help, loans/loan committee vote, etc.

Economic Development Director Alan DeLisle noted Self-Help is a primary lender, the loan committee vote issue has been flagged to discuss with the Committee to see if they want to change the policy about bringing a majority vote of the Committee to Council for consideration.

Council Member Best noted he would be voting against this item because the City should not be in the loan business.

City Manager Conner briefed Council on the monitoring mechanism that will be in place for this program commenting on monthly site visits and monthly reports to Council.

Council Member Clement urged staff to keep Council informed as to the outcome of the discussion regarding the vote in the loan committee. He spoke in support of the vote being a super majority as a show of support.

MOTION by Council Member Stith seconded by Council Member Cole-McFadden to authorize the City Manager to begin operation of the Opportunity Loan Program through the Office of Economic and Employment Development; and

To authorize the City Manager to begin operation of the Downtown and Commercial Revitalization Loan Program through the Office of Economic and Employment Development; and

To authorize the City Manager to execute a contract amendment with Mutual Community Savings Bank to provide loan origination and servicing for Opportunity Loan Program loans from program onset through March 31, 2004 was approved at 8:24 p.m. by the following vote: Ayes: Mayor Bell and Council Members Clement, Cole-McFadden and

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Stith. Noes: Council Member Best. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

**SUBJECT: SUB-RECIPIENT AGREEMENT – OPERATION
BREAKTHROUGH WEATHERIZATION PROGRAM**

MOTION by Council Member Cole-McFadden seconded by Council Member Clement to authorize the City Manager to execute a sub-recipient agreement with Operation Breakthrough, Inc., to support the Weatherization/Energy Efficient Conservation Program in an amount not to exceed \$138,400 from CDBG funds; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 8:24 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

**SUBJECT: SUB-RECIPIENT AGREEMENT - DURHAM COUNTY HABITAT
FOR HUMANITY, ELLERBEE II**

MOTION by Council Member Cole-McFadden seconded by Council Member Clement to authorize the City Manager to execute a sub-recipient agreement with Durham County Habitat for Humanity to install infrastructure improvements in the vicinity of East Ellerbee Street, near its intersection with Lindbergh Street in an amount not to exceed \$170,000 from CDBG funds; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 8:24 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

**SUBJECT: DURHAM AREA TRANSIT AUTHORITY (DATA) UNDER 18
STUDENT DISCOUNT FARE POLICY**

Chris Tiffany, of 611-F Lawson Street, expressed a concern with student fares.

MOTION by Council Member Clement seconded by Council Member Stith to adopt the resolution approving the fare and pricing schedule recommended by DATA Board of Trustees and the DATA staff was approved at 8:29 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

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Resolution #9045

SUBJECT: MANAGED COMPETITION UPDATE

Melvin Whitley, of 2614 Harvard Avenue, spoke in opposition to this matter noting this proposal would put African Americans out of work and will give the public less oversight on how government is run and expressed a concern with employee displacement.

Larry Holt, of 5110 Stardust Drive, noted proposal needs to be viewed by the broader community, requested additional information on the lost of jobs and what kind of oversight will be provided, cost, minority participation, etc. He suggested that Council postpone this until other members of the community have been brought up-to-date and the broader community has reviewed this item.

Fred Foster, of 5718 Whippoorwill Street, noted before a decision is made on looking at privatization for managed competition, to have those who manage our public employees to do a better job on managing the services that they are allowed to do.

Council Member Cole-McFadden noted that at the Work Session a concern was raised that the Managed Competition Committee did not have the buy in of the total community suggesting that the NAACP and the Durham Committee on the Affairs of Black People be contacted to receive a presentation on this issue and presentations should be made available on-line for public view. Also, she expressed a concern with employees that have tenure with this organization and requested more detailed information on statistics about the demographics of staff involved.

City Manager Conner made comments on the two pilot programs [cemetery/technology solutions] and next steps in the process [employees, RFP, etc.].

Mayor Bell noted he has seen an improvement in the maintenance of Beechwood cemetery. Also, he noted the only time that Council will re-look at this issue is when it comes back to Council to make a decision as to whether or not Council would like to move forward.

Council Member Stith made comments in support of this item commenting on the gain-sharing component for employees.

MOTION by Council Member Clement seconded by Cole-McFadden to receive a report from the Managed Competition Committee without further action until findings of the two pilot studies have been concluded enlisting the broader support of community was approved at 8:51 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: CANARY COALITION

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To adopt a "Resolution to urge NC Attorney General Roy Cooper to file a petition for review against the EPA's "Routine Maintenance" Rule Change in the New Source Review Provision of the Clean Air Act and to urge the entire North Carolina congressional delegation to co-sponsor legislation in Congress to repeal the EPA's "Routine Maintenance" ruling".

City Manager Conner made comments on this item. She noted correspondence was received requesting Council to not support the resolution in the form it was presented.

Kathy Hawkins, representing Progress Energy, requested Council to vote against this resolution and support EPA's recent revisions to the new source review (NSR) rules.

Scott Gardner, representing Duke Power, spoke in opposition to the proposed petition.

Council Member Stith disclosed that he will be abstaining from voting on this item due to a potential conflict of interest.

It was indicated that no one in support of this item was present to be heard.

Mayor Bell spoke in support of delaying this item noting he needs additional time to review this resolution.

Council Member Best spoke in opposition to this matter noting this argument should come before the state legislature or the Congressional Committee and not the City Council.

Council Member Cole-McFadden noted the deadline for getting this resolution to the Attorney General is October 27, 2003.

Mayor Bell asked the administration to have this information reviewed by the Environmental Affairs Board and to contact the Attorney General to see if they intend to move forward with this item independent from Council.

MOTION by Council Clement seconded by Council Member Cole-McFadden to refer this item to the October 23, 2003 City Council Work Session **FAILED** at 9:08 p.m. by the following vote: Ayes: Mayor Bell and Council Members Clement and Cole-McFadden. Noes: Council Member Best. Abstention: Council Member Stith. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

Note: It was indicated that this item will be discussed at the October 23, 2003 City Council Work Session.

**SUBJECT: POLICY AND PROCEDURES ON REHABILITATION
CONTRACTS AND PROJECTS**

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Vincent Brown, of Hairston Enterprise, made comments on this item. He gave an overview of work experience, commented on contracts totaling \$7,000 that were awarded to his firm and expressed dissatisfaction about comments made about his company.

City Manager Conner summarized the events surrounding the awarding of rehab contracts.

Council Member Best raised a concern with staff not following policies and procedures regarding rehab contracts. Also, he asked the administration to make sure all contractors are approved before they bid on work.

MOTION by Council Member Clement seconded by Council Member Stith to receive a report on policy and procedures for rehabilitation contracts and projects was approved at 9:32 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

**SUBJECT: FACILITY CONDITION ASSESSMENT CONSULTANT
CONTRACT - CARTER & BURGESS, INC.**

Council Member Best asked staff questions that were answered relative to services that will be provided and why they cannot be completed in-house.

MOTION by Council Member Best seconded by Mayor Bell to authorize the City Manager to enter into a contract with Carter & Burgess, Inc., in the amount of \$374,600, for consultant services for a Facility Condition Assessment; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 9:39 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

**SUBJECT: TRIANGLE TRANSIT AUTHORITY (TTA) PARKING SPACE
AGREEMENTS FOR THE NORTH GARAGE - RESEARCH
TRIANGLE REGIONAL PUBLIC TRANSPORTATION
AUTHORITY D/B/A TRIANGLE TRANSIT AUTHORITY**

City Manager Conner read the following disclosure statement:

Since the Work Session ran late on the 9th and a quorum of the Council was not in attendance, I would like to clarify one point in the TTA agreement. During the WS, staff mentioned that the agreement allows TTA to pay construction costs for 150 parking spaces for 40 years with a renewal period of 30. Therefore, the City will operate at least a portion of the North Garage for 70 years unless otherwise agreed to by both the City

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and TTA. This means that even if the functional life of the garage, which could be substantially less than 70 years, has passed and the City wants to cease operating the garage, the City would be required to continue operating at least as much of the garage as is needed for the TTA spaces to be usable for 70 years unless TTA agrees to release the City. Throughout the up-to-70-year period, the agreement requires TTA to pay its share of the operating, maintenance, and repair costs and its share of the capital expenditures.

MOTION by Council Member Cole-McFadden seconded by Council Member Best to authorize the City Manager to execute the “Parking Space Agreement for the North Garage by and between the City of Durham and Research Triangle Regional Public Transportation Authority D/B/A Triangle Transit Authority” in the amount of \$1,757,779 to be paid by TTA to the City in one lump sum for 150 parking spaces in the North Garage; and

To authorize the City Manager to execute the “Memorandum of Lease and Right of First Refusal”; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 9:41 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: DURHAM BILL OF RIGHTS DEFENSE COMMITTEE

City Manager Conner made comments on this item.

Chris Tiffany, of 611-F Lawson Street, made comments regarding sworn officers.

MOTION by Council Member Cole-McFadden seconded by Council Member Clement to adopt a “Resolution by the City Council of the City of Durham Regarding the Protection of Civil Rights and Civil Liberties was approved at 9:44 p.m. by the following vote: Ayes: Mayor Bell and Council Members Clement, Cole-McFadden and Stith. Noes: Council Member Best. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

Resolution #9047

[GENERAL BUSINESS AGENDA]

SUBJECT: ANDY MILLER

Andy Miller, representing the Police Department, made comments in support of this resolution urging Council to reduce the retirement to 25 years for law officers without penalty.

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City Manager Conner made comments on the fiscal impact of this item.

MOTION by Council Member Best seconded by Council Member Stith to adopt a “Resolution Supporting House Bill 151 – Law Officers’ 25 - Year Retirement” was approved at 9:52 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

Resolution #9049

SUBJECT: COOPERATION AGREEMENT WITH DURHAM HOUSING AUTHORITY (DHA) – MAIN STREET TOWNHOMES

MOTION by Council Member Cole-McFadden seconded by Council Member Stith to authorize the City Manager to execute a cooperation agreement with the Durham Housing Authority to establish tax payments, PILOT payments and City service provisions for the proposed Main Street Townhomes development; and to make modifications to the agreement that are consistent with the agenda item was approved at 9:52 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

[GENERAL BUSINESS AGENDA-PUBLIC HEARINGS]

SUBJECT: REZONING MATTER CASE P03-16 – DUKE UNIVERSITY/CITY INITIATED - CITY OF DURHAM – 1405.49 ACRES OF DUKE UNIVERSITY CAMPUS

To receive public comment on rezoning Case P03-16 (Duke University/City Initiated); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-16 out of Part A: R-10, R-5, RM-20, RM-16, RM-12, GC(D), I-2, OI-2Part B: R-10, R-8, R-5, R-3, I-2, OI-2 and placing same in and establishing same as Part A- UC, Part B- UC(D).

City/County Planning Director Frank Duke briefed Council on the staff report highlighting the committed elements. Also, he noted staff and the Zoning Committee recommended approval.

Mayor Bell opened the public hearing.

Proponents

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George Stanziale, representing the applicant, spoke in support of this rezoning. He noted there was no specific development associated with this rezoning, therefore; a development plan was not required.

John Schelp, representing Old West Durham Neighborhood Association, spoke in support of this rezoning. He stated that he has received written assurances from President Keohane that Duke has no plans or intentions to build a fence around the East Campus. Also, he made comments about the issue of on-campus retail noting existing shopping districts would also be at a disadvantage because Duke's on-campus retail shops would not have to pay property taxes.

No one spoke in opposition to this rezoning.

Mayor Bell declared closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Cole-McFadden to receive public comment on rezoning Case P03-16 (Duke University/City Initiated); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-16 out of Part A: R-10, R-5, RM-20, RM-16, RM-12, GC(D), I-2, OI-2 Part B: R-10, R-8, R-5, R-3, I-2, OI-2 and placing same in and establishing same as Part A- UC, Part B- UC(D) was approved at 10:04 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

MOTION by Council Member Best seconded by Council Member Cole-McFadden to extend the meeting beyond 10:00 p.m. was approved at 10:04 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

**SUBJECT: REZONING MATTER CASE P03-31 – IREDELL STREET
PARKING FACILITY – COULTER JEWELL THAMES, PA**

To receive public comment on rezoning Case P03-31 (Iredell Street Parking Facility); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-31 out of R-3 and placing same in and establishing same as OI-2(D).

City/County Planning Director Frank Duke briefed Council on the staff report giving an overview of the committed elements. He noted proposal is consistent with the small area plan and staff and the Zoning Committee recommended approval.

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Mayor Bell opened the public hearing.

Proponents

Patrick Byker, representing the applicant, spoke in support of this rezoning asking for Council approval of this item.

John Schelp, of 1022 Rosehill Avenue, spoke in support of this rezoning request.

No one spoke in opposition to this rezoning.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Cole-McFadden seconded by Council Member Stith to receive public comment on rezoning Case P03-31 (Iredell Street Parking Facility); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-31 out of R-3 and placing same in and establishing same as OI-2(D) was approved at 10:09 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: REZONING MATTER CASE P03-32 – HOPE VALLEY FARMS, POD MM - COULTER JEWELL THAMES, P.A. – 42.346 ACRES OF POD MM OF HOPE VALLEY FARMS, NORTH SIDE OF CARLTON CROSSING DRIVE AND WEST SIDE OF ROXBORO STREET

To receive public comment on rezoning Case P03-32 (Hope Valley Farms, Pod MM); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-32 out of PDR 3.44 and placing same in and establishing same as PDR 4.8.

City/County Planning Director Frank Duke briefed Council on the staff report highlighting the committed elements. He noted proposal is consistent with small area plan and staff and Zoning Committee recommended approval.

Mayor Bell opened the public hearing.

Proponent

Attorney Ken Spaulding, representing the applicant, spoke in support of this item urging Council to approve this rezoning request.

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No one spoke in opposition to this rezoning request.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Best to receive public comment on rezoning Case P03-32 (Hope Valley Farms, Pod MM); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-32 out of PDR 3.44 and placing same in and establishing same as PDR 4.8 was approved at 10:12 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

SUBJECT: REZONING MATTER CASE P03-39 – DURHAM RESCUE MISSION THRIFT STORE – DURHAM RESCUE MISSION – NORTHWEST CORNER OF NC 55 AND EAST OF CORNWALLIS ROAD

To receive public comment on rezoning Case P03-39 (Durham Rescue Mission); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-39 out of I-2 and placing same in and establishing same as GC.

City/County Planning Director Frank Duke briefed Council on the staff report. He noted proposal is consistent with small area plan and indicated that staff and the Zoning Committee have recommended approval.

Mayor Bell opened the public hearing.

Proponent

Patrick Byker, representing the applicant, spoke in support of this rezoning.

No one spoke in opposition to this rezoning.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Cole-McFadden to receive public comment on rezoning Case P03-39 (Durham Rescue Mission); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-39 out of I-2 and placing same in and establishing same as GC was approved at 10:15 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-

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McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

**SUBJECT: REZONING MATTER CASE P03-40 – RENAISSANCE CENTER –
THE JOHN R. MCADAMS COMPANY – 6709 & 7017
FAYETTEVILLE ROAD**

To receive public comment on rezoning Case P03-40 (Renaissance Center); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-40 out of RD and NC(D) and placing same in and establishing same as MU(D).

City/County Planning Director Frank Duke briefed Council on the staff report providing an overview of committed elements. He noted staff and the Zoning Committee recommended approval.

Mayor Bell opened the public hearing.

Proponent

John Silverman, representing the applicant, spoke in support of this rezoning.

No one spoke in opposition to this rezoning.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Cole-McFadden to receive public comment on rezoning Case P03-40 (Renaissance Center); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-40 out of RD and NC(D) and placing same in and establishing same as MU(D) was approved at 10:19 p.m. by the following vote: Ayes: Mayor Bell and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Mayor Pro Tempore Cheek and Council Member Edwards.

There being no further business to come before the City Council, the meeting was adjourned at 10:19 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk

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